



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
4.475

CHAPTER Program Implementation and Records	SUBCHAPTER Release And Discharge Procedures	EFFECTIVE DATE June 18, 2014	NUMBER OF PAGES 5	PAGE NUMBER 1 of 5
SUBJECT Release of Criminally Committed Clients		AUTHORITY Sections 552.020, 552.040, 595.209, 575.195, and 630.050 RSMo	HISTORY See Below	
PERSON RESPONSIBLE Director, CPS			SUNSET DATE July 1, 2017	

PURPOSE: Prescribes policies and procedures for the release of clients committed pursuant to section 552.040, RSMo.

APPLICATION: Applies to clients committed seeking release pursuant to section 552.040, RSMo.

(1) For purposes of this DOR, the following terms mean:

(A) "Forensic client," a client committed pursuant to section 552.040, RSMo.

(B) "Immediate conditional release," an immediate release of a forensic client by the committing court if the client was not acquitted of a dangerous felony as defined by 556.061, RSMo, murder first degree, sexual assault or the attempts thereof and the Certified Forensic Examiner supports such a release.

(C) "Conditional release," a release, for any period of time, unescorted by Department staff, of a forensic client from a Department facility subject to conditions set out by the appropriate court. A conditional release may or may not include a discharge from the facility to the community.

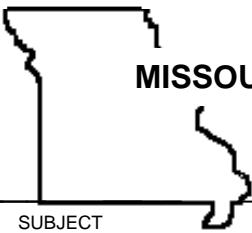
(D) "Unconditional release," discharge of a forensic client from the Department by order of the committing court.

(E) "Forensic Review Committee," a committee appointed by the head of the facility and consisting of the medical director, a psychiatrist or a licensed doctoral level psychologist with expertise in forensics (if available) or a physician in another specialty with forensic experience, and a mental health professional with experience in forensics who is not a physician and any other individuals appointed by the facility's Chief Operating Officer.

(2) The Department shall provide treatment in the least restrictive environment consistent with the needs of the client and the needs of public safety as set out by law for forensic clients. Forensic clients, who in the clinical judgment of the treatment staff do not meet statutory criteria for release, shall not be proposed or approved for immediate conditional release, conditional release, or unconditional release.

(3) Mental health facilities serving forensic clients shall have a Forensic Review Committee to review treatment team applications for immediate conditional releases, conditional releases and unconditional releases of forensic clients.

(4) A client committed pursuant to section 552.040, RSMo, shall be conditionally released to a less restrictive environment by court order only. Clients who were acquitted of a dangerous felony as defined by 556.061, RSMo, murder first degree or sexual assault may only be released by the court where originally tried and acquitted. Clients acquitted of other crimes must file for conditional release in the court having probate jurisdiction where the facility is located.



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Clients may be granted a conditional release without discharge in which the client continues to reside at the facility while being allowed periods of release subject to the conditions ordered by the court and monitoring by facility staff. Clients may be granted a conditional release with discharge that allows placement in the community at a specified level of supervision with monitoring by a Forensic Case Monitor. The following provisions shall apply:

(A) The client's treatment team shall submit any applications for conditional release to the Forensic Review Committee. The team shall complete and submit risk assessment information and the appropriate release request materials with the application, along with other supporting documentation. The conditional release application shall be developed in consultation with the Forensic Case Monitor, and whenever possible, with the residential provider, the administrative agent/affiliate and other community provider. The client shall sign the proposed conditions of release and any subsequent amendments to those conditions.

1. The Forensic Review Committee shall submit written recommendations to the Chief Operating Officer of the facility regarding release applications.

2. The Chief Operating Officer of the facility shall accept, reject or modify recommendations of the Forensic Review Committee or return the application to the committee for further investigation.

3. New or Amended Conditional Release

(a) Forensic Review Committee reviews the application. If approved, the Forensic Review Committee forwards the application to the Chief Operating Officer of the facility.

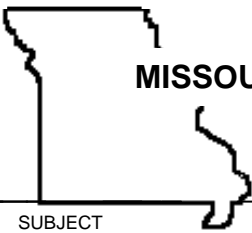
(b) The Chief Operating Officer reviews the Forensic Review Committee recommendation and the application. If approved, the Chief Operating Officer forwards the application to the Director of Forensic Services.

(c) The Director of Forensic Services may seek independent review of applications for clients acquitted of a dangerous felony as defined by 556.061, RSMo, murder first degree or sexual assault. The Director of Forensic Services may have any other application reviewed independently if deemed necessary.

(d) The Director of Forensic Services conducts a final review of the application. Additional information may be requested or changes may be required before the application can proceed. The Director of Forensic Services may ultimately disapprove of the release, which halts the application.

(e) If conditional release is approved by the Director of Forensic Services, the Director of Forensic Services notifies the Chief Operating Officer that the application has been approved and forwards a copy to the Office of General Counsel.

(f) The application is reviewed by the General Counsel's Office to determine if the Department will file the application. The assigned Assistant General Counsel may consult with the General Counsel and the Director of Forensic Services as needed. The General Counsel's Office advises the Director of Forensic Services and the Chief Operating Officer whether the Department will file the application. If it is decided that Department will not file the application, the client retains the ability to request that the application be filed by the public



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defender's office, Legal Aid or a private attorney. If the client is indigent, he or she may petition the appropriate court, requesting that a public defender be appointed to represent their request for conditional release.

(g) Application is filed.

4. The Office of the General Counsel will file the application for a Conditional Release with the appropriate court. Copies of the application will be sent to:

(a) Prosecuting attorney of the county of original jurisdiction;

(b) Prosecuting attorney of the county in which the facility is located (unless, it was an immediate conditional release);

(c) The client (unless he or she files);

(d) Director of the Department of Mental Health; and

(e) Chief Operating Officer of the requesting facility.

5. Any party objecting to the conditional release must do so in writing thirty (30) days after being served notice of the pending release. The conditional release must be approved by the appropriate court.

6. The Forensic Coordinator shall provide victim notice. The Office of the General Counsel shall note compliance with the victim notice requirements in the filing with the court.

7. Upon request by an indigent committed person, the appropriate court may appoint the public defender to represent that person in the conditional release hearing. Any such request shall be directed to the court.

8. The Office of General Counsel will forward a copy of the signed court order authorizing the Conditional Release to the Chief Operating Officer of the facility, the Forensic Case Monitor and to the Director of Forensic Services.

9. Conditional and unconditional release hearings shall be open to the public.

(B) The Forensic Coordinator or designee shall give forensic clients copies of court-approved conditions of release before discharge.

(5) A client committed under section 552.040, RSMo, may receive an immediate conditional release if the following components in (A) through (D) are in place:

(A) The Certified Forensic Examiner determines that a mental disease or defect that caused the client not to know or appreciate the nature, quality or wrongfulness of his or her conduct is present;

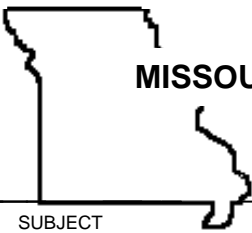
(B) The crime with which the client is charged is not a dangerous felony as defined by 556.061, RSMo, murder first degree, sexual assault, or the attempts thereof;

(C) The Certified Forensic Examiner is of the opinion that the client is appropriate to immediately release to the community and this opinion is supported by the Forensic Case Monitor and the Forensic Review Committee; and

(D) The Certified Forensic Examiner completes, or causes to have completed, an Integrated Risk Assessment and the Forensic Release Request form.

(E) If the Certified Forensic Examiner renders an opinion supporting an immediate conditional release to the community, the evaluation shall include an opinion as to:

1. Location and degree of necessary supervision of housing;



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2. Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;

3. Medication follow-up, including necessary testing to monitor medication compliance;

4. Frequency of contact with the Department's Forensic Case Monitor (at least monthly contact shall be required) Forensic Case Monitor; and

5. Any other conditions or supervision as may be warranted by the circumstances of the case as determined by the Certified Forensic Examiner, the Forensic Case Monitor and the Forensic Review Committee.

(F) The Certified Forensic Examiner shall be responsible for referral of this opinion for immediate conditional release to the Forensic Review Committee for consideration;

(G) Any necessary community referrals shall be made at the time of the mailing of the pretrial opinion to the respective court. This will facilitate follow-up in the community and case monitoring responsibilities;

(H) The Certified Forensic Examiner must be cognizant of the pretrial timelines, and may need to request an extension of time to complete the evaluation when an immediate conditional release is considered;

(I) Pretrial social workers, administrative agents and affiliates, Forensic Case Monitors, facility social work departments, or others may be asked to provide such resource information.

(J) Clients who are immediately conditionally released are still subject to escape from commitment charges; conditional release hearing requirements, with somewhat different notice provisions; and a follow-up by Forensic Case Monitors;

(K) Any aftercare services recommended by the Certified Forensic Examiner should be initiated immediately upon the rendering of the opinion for immediate conditional release. The responsibility for such referrals shall be through the usual facility Forensic Review Committee procedures;

(L) The client should be oriented to the proposed conditions of release prior to the hearing. The responsible party for this is the Forensic Case Monitor. The client's signature shall be obtained on the conditional release plan.

(M) If the Certified Forensic Examiner renders an opinion supporting an immediate conditional release, the court shall hold a hearing to determine if such a release is appropriate.

(N) The court conducts a hearing to determine if the release is appropriate, and includes, at a minimum, the following information in the conditional release order:

1. Location and degree of necessary supervision of housing;

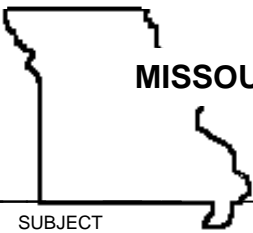
2. Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;

3. Medication follow-up, including necessary testing to monitor medication compliance;

4. At least monthly contact with the Department's Forensic Case Monitor;

5. Any other conditions or supervision as may be warranted by the circumstances of the case.

(6) A client committed under section 552.040, RSMo, may be unconditionally released only by order of the committing court where the client was tried and acquitted.



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(7) Section 4 (A) shall apply to the application for unconditional release and to an amended conditional release with significant amendments.

(8) Victims of a dangerous felony as defined by 556.061, RSMo, murder first degree, voluntary manslaughter or an attempt to commit one of the preceding crimes shall automatically be notified of any release, release hearing, escape or death of a forensic client. Any other victims and witnesses, upon written request, shall be notified of the above. Each facility shall work in conjunction with the local courts and the Office of General Counsel regarding local patterns and practices pertaining to victim notification to ensure that such local patterns and practices are followed. The process for victim notification, as set forth in the current Forensic Manual, shall be followed in all requests for any type of release defined in this DOR.

(9) Any forensic client who escapes, or otherwise disappears while either an inpatient resident or on immediate conditional, or conditional release shall be considered to have escaped from commitment to the department or from conditional release, and the department shall file escape from commitment or conditional release charges pursuant to section 575.195, RSMo.

(10) Clients on immediate conditional release or conditional release shall not travel out-of-state except with approval by the appropriate court, using the guidelines set forth in the most current edition of the Forensic Manual.

(11) Prior to any immediate conditional, conditional, or unconditional release application being filed with the appropriate courts, the Forensic Coordinator shall assure that:

(A) Sex offender registration requirements have been met; and

(B) That if the client is committed as NGRI for a sexually violent offense as defined by statute, the Forensic Review Committee has reviewed an assessment of the client to determine if the client meets the statutory definition of a sexually violent predator.

HISTORY. Original DOR effective April 15, 1982. Amendment effective January 15, 1988. Amendment effective July 1, 1997. Amendment effective August 1, 1998. Amendment effective July 1, 2002. Amendment effective July 1, 2005. On July 1, 2008 the sunset date was extended to July 1, 2011. Amendment effective July 1, 2011. On July 1, 2011 the sunset date was extended to July 1, 2014. Amendment effective June 18, 2014.